

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE REFCO SECURITIES LITIGATION : 07 MDL 1902 (JSR)
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GEORGE L. MILLER, Chapter 7 Trustee :
for the Estate of Suffolk LLC, :
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Plaintiff, :
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-v- : Applies To:
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CSFB, : 09 Civ. 2885
LAB MORGAN CORPORATION, : 09 Civ. 2920
ML IBK POSITIONS, INC., : 09 Civ. 2922
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Defendants. : ORDER
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JED S. RAKOFF, U.S.D.J.

On November 13, 2009, Special Master Daniel J. Capra issued a Report and Recommendation in the above-captioned three cases recommending the dismissal of Counts I, III, and IV with prejudice and Count II with leave to amend. After plaintiff timely submitted objections to the Special Master's recommendations as to Counts I, II, and III,¹ and defendants responded thereto, the Court heard oral argument on January 5, 2010 and considered the entire matter de novo.

¹As confirmed at oral argument, plaintiff did not object to the dismissal of Count IV, and that count was therefore dismissed, with prejudice, from the bench. See tr. 1/05/10.

Having done so, the Court finds itself in complete agreement with Special Master Capra's thorough and well-reasoned Report and Recommendation and hereby adopts it in full and as if incorporated herein. The Court adds only that, while a significant argument might have been made that Count II should also have been dismissed with prejudice, defendants, in their response to plaintiff's objections, expressly disclaimed any objections to the Special Master's recommendation in this regard, see Defs. Resp. at 7 n.6, and accordingly plaintiff will be given until March 5, 2010 to replead Count II. In all other respects, the complaint is dismissed with prejudice.

SO ORDERED.



JED S. RAKOFF, U.S.D.J.

Dated: New York, New York
January 11, 2010